

# PugetSoundPartnership

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## In-Lieu-Fee Pilot Service Area Selection Agenda Item #2

Prepared by: Chris Townsend

Approved by Director: DDD

Presented by: Chris Townsend

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**Proposed Action:** Advice

### **Summary:**

The Puget Sound Partnership is working with key stakeholders to develop an in-lieu-fee (ILF) mitigation program consistent with Action Agenda Near Term Action D.4.6. In accordance with advice received from tribes, the program will initially be implemented in one or two service areas.

The Washington State Legislature provided funding in the 2009-2011 budget to implement restoration projects in in-lieu-fee pilot service areas. The intent of these funds is to help ensure the success of the in-lieu-fee program by providing capacity to construct restoration projects before impacts occur in pilot service areas.

The ILF program is advised by a multi-stakeholder group consisting of tribal, federal, state and local governments, non-profits, and the business community. That group generally agreed upon a set of criteria that should be used to inform the selection of pilot service areas. The staff recommendation is based on that advice.

### **Staff Recommendation:**

The following criteria should be considered when selecting pilot service areas for the in-lieu-fee program:

- a. Ecological Criteria
  - i. The ecological condition of the watershed including the extent and position of development or other alteration and the extent and position of relatively high function areas should be considered. The ideal pilot watershed would have a mix of degraded and functional areas.
  - ii. The potential that successful implementation of an ILF program in the nominated watershed will contribute to the recovery of the health of Puget Sound should be considered.
  - iii. The initial focus of the pilot will be on mitigation for unavoidable impacts to wetlands and buffers. However, a successful pilot ILF program could have the potential for using the program for other

types of habitat such as shorelines, flood plains, and upland sensitive habitats. The potential for use of the proposed ILF program for habitats other than wetlands and their buffers should be considered.

- iv. The extent to which an ILF program would assist with the recovery of species listed as threatened or endangered under state or federal regulations should be considered.
- v. The availability of a watershed characterization or other comprehensive source of information about watershed function and habitat that would enable prioritization of potential mitigation sites would contribute to the success of a pilot program.

b. Development Pressure and Mitigation Requirements

- i. In order to provide a sufficient test of an ILF program, a watershed would have to be experiencing enough growth to create demand for use of the program.
- ii. The potential for major public works or large private projects in the watershed that are likely to have unavoidable impacts to aquatic resources at the appropriate phase of development that would be willing and interested in using the ILF program to meet their mitigation requirements would contribute to the success of the pilot program.
- iii. A pilot watershed should have potential mitigation sites in proximity to areas susceptible to growth.

c. Local Support

- i. Support by tribes with a presence and/or interest in the service area is essential.
- ii. The presence of approved mitigation banks or other approved ILF programs within the proposed pilot service area should be considered. In general, potential pilot areas that overlap with the service areas of approved mitigation banks would be less desirable as pilot areas than those that do not have a bank available.
- iii. The presence of a well-organized watershed group or a tribe or other entity willing to organize a group of stakeholders that would be able to assist with the identification and prioritization of potential mitigation sites would be beneficial.
- iv. Local governments in the potential service area should be receptive to implementing and using an ILF program to compensate for impacts that are subject to their permitting authority.
- v. Local governments in the potential service area should be willing to make necessary amendments to their critical areas ordinances to allow use of a function-based mitigation assessment tool and the use of an ILF program for compensatory mitigation.
- vi. Local governments within the potential pilot service area should be amenable to allowing mitigation outside of their boundaries.

- vii. An ILF program should be compatible with the goals of the agricultural community with the potential pilot service area.

**Background:**

The Science Panel, the ECB and the Leadership Council have been provided briefings on the in-lieu-fee program in general but not specifically on the selection of pilot service areas.

**Next Steps:**

Staff intends to consider ECB recommendations regarding appropriate criteria to use to select pilot service areas. Staff will work with tribes, other governments, and other stakeholders to develop a recommendation for two service areas to be presented to the Leadership Council for approval at their September meeting.